

**ORDINANCE NO. 11-63**

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA DECLARING A BUILDING AND ZONING MORATORIUM FOR A PERIOD OF 270 DAYS FROM THE EFFECTIVE DATE OF THIS ORDINANCE ON THE ISSUANCE OF BUILDING PERMITS AND ON THE ACCEPTANCE AND APPROVAL OF BUSINESS TAX RECEIPT APPLICATIONS INCLUDING PROVIDING ZONING REVIEW AND APPROVAL OF APPLICATIONS FOR A BUSINESS TAX RECEIPT FOR THE ESTABLISHMENT OR OPERATION OF NEW PAIN MANAGEMENT CLINICS AND ALSO FOR MEDICAL OFFICES AND CLINICS WHICH INCLUDE ON-SITE DISTRIBUTION OF CONTROLLED SUBSTANCES IDENTIFIED IN SCHEDULE II, III, OR IV IN FLORIDA STATUTES §§ 893.03, 893.035, OR 893.0355; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the national rise in prescription drug abuse has been associated with the unethical operation of pain management clinics which dispense narcotic drugs on-site mushrooming in cities and towns across America;

**WHEREAS**, the illegal sale, use, delivery, and distribution of controlled substances is a threat to the health, safety and welfare of the residents of the City of Hialeah;

**WHEREAS**, local televised and published news reports have reported numerous stories in the recent past describing a “pipeline” of trafficking drugs from South Florida pain management clinics to users in other states, such as Kentucky, West Virginia, and Ohio;

**WHEREAS**, the threat of increased crime associated with such clinics is very significant and could, in the absence of adequate regulations governing where narcotics drugs may be dispensed, undermine our City’s police resources and crime prevention and suppression efforts and the overall safety and quality of life in our neighborhoods;

**WHEREAS**, imposing a temporary moratorium until adequate regulations have been developed, considered and adopted is in the best interest of the health, safety and general welfare of the community and the residents of the City of Hialeah; and

**WHEREAS**, the Planning and Zoning Board at its meeting of August 24, 2011 recommended approval of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated herein by reference as if fully set forth herein.

**Section 2:** The City of Hialeah, Florida hereby declares a moratorium on the acceptance building applications and issuance of building permits and zoning review or approval of building permits applications and the acceptance and approval of applications for business tax receipts, including zoning review and approval of business tax receipt applications, for the establishment or operation of new pain management clinics and medical offices and clinics which include on-site distribution of controlled substances identified in Schedule II, III, or IV in Florida Statutes §§ 893.03, 893.035, or 893.0355, for a period of 270 days from the effective date of this ordinance.

**Section 3: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4: Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 5: Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 6:     Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

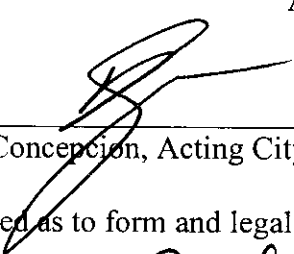
PASSED AND ADOPTED this ~~27th~~ day of ~~September~~, 2011.

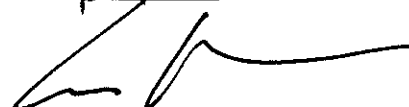
THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
\_\_\_\_\_  
Isis Garcia Martinez  
Council President

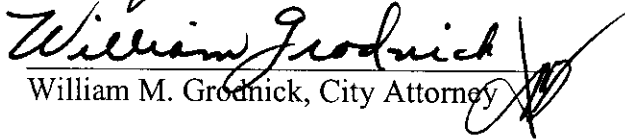
Attest:

Approved on this 29 day of September, 2011.

  
\_\_\_\_\_  
David Concepcion, Acting City Clerk

  
\_\_\_\_\_  
Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

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Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Yedra voting "Yes".